Appl. No. 10/809,607
Response Dated July 27, 2007
Reply to Office Action of April 27, 2007

Docket No.: 1020.P18644
Examiner: Laforgia, Christian A.
TC/A.U. 2131

REMARKS

Summary

Claims 1-20 stand in this application. Claims 1, 2, 6, 7 and 8 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 2, 6, 7 and 8 in order to facilitate prosecution on the merits.

Specification

Claim 17 has been objected to for failing to provide proper antecedent basis for the claimed subject matter. Applicant respectfully traverses the objection based on the following remarks. Applicant respectfully submits, as correctly noted in the Office Action on page 2, that "storage medium" as recited in independent claim 17, is adequately defined in the specification, specifically at page 9, paragraph 0023. As such, Applicant respectfully requests removal of objection to the Specification.

35 U.S.C. § 112

Claims 2-4, 8 and 9 have been rejected under 35 U.S.C. § 112 for not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. Applicant respectfully traverses the rejection based on the above amendments and the following remarks. Claims 2 and 8 have been amended in accordance with the

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Office Action, and removal of this rejection is respectfully requested. With respect to claims 3, 4 and 9, Applicant respectfully submits that proper definitions of the Iub and Iur specifications can be found in the specification at least at page 7, paragraph 0019.

Applicant further submits that the above amendments and remarks are made to overcome a § 112 rejection and are not made to overcome the cited references. Accordingly, these amendments should not be construed in a limiting manner.

Official Notice

At pages 4 and 5 of the Office Action the Examiner takes Office Notice of a portion of the subject matter of claims 1, 7 and 13 which is not disclosed by the cited reference. Applicant respectfully traverses the taking of Office Notice and respectfully requests that the Examiner support the taking of Office Notice with adequate evidence.

35 U.S.C. § 103

At page 3, paragraph 8 of the Office Action claims 1, 5, 6 and 13-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 6,996,712 to Perlman et al. ("Perlman"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of

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ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the reference (or

references when combined) must teach or suggest all the claim limitations. The teaching

or suggestion to make the claimed combination and the reasonable expectation of success

must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*,

947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

     As recited above, to form a *prima facie* case of obviousness under 35 U.S.C §

103(a) the cited references, when combined, must teach or suggest every element of the

claim. *See* MPEP § 2143.03, for example. Applicant respectfully submits that the Office

Action has not established a *prima facie* case of obviousness because the cited reference

fails to teach or suggest every element recited in claims 1, 5, 6 and 13-20. Therefore

claims 1, 5, 6 and 13-20 define over Perlman. For example, claim 1 recites the following

language, in relevant part:

> said frame authentication module to authenticate frames
> communicated by said network interface or encode frames
> with authentication information if the frames do not include
> authentication information.

According to the Office Action, the missing language is disclosed by Perlman at column

6, lines 14-27. Applicant respectfully disagrees.

     Applicant respectfully submits that Perlman fails to teach, suggest or disclose the

missing language. Perlman at the given cite, in relevant part, states:

> The recipient may then choose one of the selected integrity
> check functions to authenticate the packet, and compare the
> result of the encoding of the received bytes using the
> chosen function with the received result that corresponds to
> the same function. To avoid detection, an interloper would
> thus have to produce a forged packet that decoded to the

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corresponding results for all of selected integrity functions, presumably without knowledge of which functions have been selected for the packet. Accordingly, the combining of more than one integrity functions for each of the p data packets further increases the robustness of the system over the use of a single function selected from the set of functions.

By way of contrast, the claimed subject matter teaches "said frame authentication module to authenticate frames communicated by said network interface or encode frames with authentication information if the frames do not include authentication information." Applicant respectfully submits that this is different than the above recited teaching of Perlman.

Applicant respectfully submits that he has been unable to locate at least "said frame authentication module to ... encode frames with authentication information if the frames do not include authentication information" as recited in claim 1. Applicant respectfully submits that he has been unable to locate any teaching in Perlman directed to encoding frames that lack authentication information. Rather, Applicant respectfully submits that the teaching of Perlman is arguably directed to analyzing previously encrypted data blocks. Therefore, Perlman fails to disclose, teach or suggest the missing language. Consequently, Perlman fails to disclose, teach or suggest every element recited in claim 1.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claim 1 is respectfully requested. Claims 5 and 6 also are non-obvious and patentable over Perlman at least on

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the basis of their dependency from claim 1. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

Claims 13 and 17 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 13 and 17 are not obvious and are patentable over Perlman for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 13 and 17. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 14-16 and 18-20 that depend from claims 13 and 17 respectively, and therefore contain additional features that further distinguish these claims from Perlman.

At page 6, paragraph 20 of the Office Action claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of draft 3G TS 22.100 ("TS 22.100"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant respectfully submits that claim 2 depends from claim 1. As recited above, Applicant respectfully submits that Perlman fails to teach, suggest or disclose each and every element of claim 1. Furthermore, Applicant respectfully submits that TS 22.100 also fails to teach, suggest or disclose the missing language. Therefore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claim 2 at least on the basis of its dependence from claim 1 and for reasons analogous to those presented above.

At page 7, paragraph 25 of the Office Action claims 3, 4, 7 and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of draft 3G

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TS 25.427 ("TS 25.427"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant respectfully submits that claims 3 and 7 depend from claim 1. As recited above, Applicant respectfully submits that Perlman fails to teach, suggest or disclose each and every element of claim 1. Furthermore, Applicant respectfully submits that TS 25.427 also fails to teach, suggest or disclose the missing language. Therefore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 3 and 4 at least on the basis of their dependence from claim 1 and for reasons analogous to those presented above.

Applicant respectfully submits that Perlman and TS 25.427, taken alone or in combination, fail to teach, suggest or disclose each and every element recited in independent claim 7. Applicant respectfully submits that claim 7 recites features similar to those recited in claim 1. As recited above, Applicant respectfully submits that Perlman fails to teach each and every element of claim 1. Applicant respectfully submits that TS 25.427 also fails to teach, suggest or disclose the missing language.

Therefore, Applicant respectfully submits that claim 7 is not obvious and is patentable over Perlman and TS 25.427 for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 7. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 9-12 that depend from claim 7, and therefore contain additional features that further distinguish these claims from Perlman and TS 25.427.

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For at least the reasons given above, claims 1-20 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 1-20 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

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It is believed that claims 1-20 are in allowable form. Accordingly, a timely

Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if

such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC

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John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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